

COPY

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

IN THE HAMILTON SUPERIOR COURT 4
CAUSE NO. 29D04-1410-CT-10569

JAMES BECKETT,)
)
Plaintiff,)
)
v.)
)
HAMILTON COUNTY SHERIFF'S DEPT;)
CITY OF CARMEL, INDIANA;)
CARMEL CITY POLICE DEPARTMENT;)
PATRICK CLENNON; SHANE COLLINS;)
ADAM DAVENPORT; BEN FISHER;)
THOMAS LOGAN; RALPH LONG; GREG)
LOVEALL; AND CARY MILLIGAN, Each in)
Their Individual and Official Capacity)
)
Defendants.)

**NOTICE OF DEFENDANTS, CITY OF CARMEL, INDIANA; CARMEL
CITY POLICE DEPARTMENT; SHANE COLLINS; ADAM DAVENPORT;
BEN FISHER, RALPH LONG AND GREG LOVEALL'S
APPLICATION TO REMOVE CAUSE TO FEDERAL COURT**

Defendants, City of Carmel, Indiana; Carmel City Police Department; Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall, by counsel, hereby provide notice of the removal of this cause from the Hamilton Superior Court 4 to the United States District Court for the Southern District of Indiana, Indianapolis Division, pursuant to 28 U.S.C. §§ 1441 and 1446. Attached hereto as Exhibit "A" is Notice of Consent on behalf of the Co-Defendants. Pursuant to 28 U.S.C. § 1446(d), the Hamilton Superior Court 4 is deprived of jurisdiction and shall undertake no further proceedings with respect to this cause.

Respectfully submitted,

TRAVELERS STAFF COUNSEL OFFICE

By: Aimee Rivera Cole
Aimee Rivera Cole, #24669-45

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document has been duly served upon all persons listed below, by United States mail, first-class postage prepaid, on this 20TH day of November, 2014:

Richard A. Cook
YOSHA COOK SHARTZER
& TISCH
9102 N. Meridian Street, Suite 535
Indianapolis, IN 46260

Donald B. Kite, Sr.
Darren Murphy
WUERTZ LAW OFFICE, LLC
22 East Washington St., Suite 210
Indianapolis, IN 46204

Douglas C. Haney
Ashley Marie Ulbricht
Jon A. Oberlander
City of Carmel, Indiana
One Civic Square
Carmel, IN 46032

By: Aimee Rivera Cole
Aimee Rivera Cole, #24669-45

Travelers Staff Counsel Office
280 East 96th Street, Suite 325
Indianapolis, IN 46240
PH (317) 818-5100
FX (317) 818-5124
ARCOLE@TRAVELERS.COM
ARC:km

STATE OF INDIANA)
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IN THE HAMILTON SUPERIOR COURT 4
CAUSE NO. 29D04-1410-CT-10569

JAMES BECKETT,

Plaintiff,

v.

HAMILTON COUNTY SHERIFF'S DEPT;
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CARMEL CITY POLICE DEPARTMENT;
PATRICK CLENNON; SHANE COLLINS;
ADAM DAVENPORT; BEN FISHER;
THOMAS LOGAN; RALPH LONG; GREG
LOVEALL; AND CARY MILLIGAN, Each in
Their Individual and Official Capacity

Defendants.

NOTICE OF CONSENT TO REMOVAL

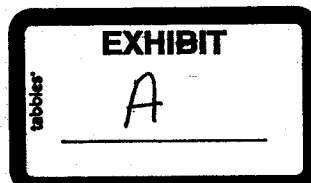
Comes now Defendants, Hamilton County Sherriff's Department, Patrick Clennon, Thomas Logan, and Cary Milligan by counsel, and do hereby notify the Court of their consent to the Removal of this cause to United States District Court for the Southern District of Indiana, Indianapolis Division, from the Hamilton County Superior Court, Cause No. 29D04-1410-CT-10569.

Respectfully submitted,

Wuertz Law Offices, LLC

By:

Donald B. Kite, Sr.



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THOMAS LOGAN; RALPH LONG; GREG
LOVEALL; AND CARY MILLIGAN, Each in
Their Individual and Official Capacity

Defendants.

CCS ENTRY

DATE: _____

JUDGE'S APPROVAL: _____

The Clerk will please enter the following entry on Chronological Case Summary:

Defendants, City of Carmel, Indiana; Carmel City Police Department;
Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall,
hereby file their Appearance, Motion for Enlargement of Time to Answer and
proposed Order.

Submitted by:

By:

Aimee Rivera Cole

Aimee Rivera Cole, #24669-45

cc: Richard Cook

COPY

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CAUSE NO. 29D04-1410-CT-10569

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THOMAS LOGAN; RALPH LONG; GREG)
LOVEALL; AND CARY MILLIGAN, Each in)
Their Individual and Official Capacity)
)
Defendants.)

APPEARANCE FORM (CIVIL)

Responding Party

Case Number: 29D04-1410-CT-10569

/ / Check if *Pro Se*

1. City of Carmel, Indiana
Carmel City Police Department
Patrick Clennon, Shane Collins, Adam Davenport, Ben Fisher, Ralph Long
and Greg Loveall

Name or names of responding party or parties.

2. Address of *pro se* responding party or parties (as applicable for service of process):

Name: _____ Name: _____

Address: _____ Address: _____

3. Attorney information (as applicable for service of process):

Name: Aimee Rivera Cole Atty. Number: 21744-49
Address: TRAVELERS STAFF COUNSEL Phone: (317) 818-5100
280 East 96th Street, Suite 325 FAX: (317) 818-5124
Indianapolis, IN 46240 Computer Address: arcole@travlers.com

4. Will responding party accept FAX service: Yes ☐ No ☒

If yes, FAX No.: _____

5. Additional information required by state or local rule:

Social Security Number: _____

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document has been duly served upon
all persons listed below, by United States mail, first-class postage prepaid, on
this 14th day of November, 2014:

Richard A. Cook
YOSHA COOK SHARTZER
& TISCH
9102 N. Meridian Street, Suite 535
Indianapolis, IN 46260

By:

Aimee Rivera Cole

Aimee Rivera Cole, #24669-45

Travelers Staff Counsel Office
280 East 96th Street, Suite 325
Indianapolis, IN 46240
PH (317) 818-5100
FX (317) 818-5124
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THOMAS LOGAN; RALPH LONG; GREG)
LOVEALL; AND CARY MILLIGAN, Each in)
Their Individual and Official Capacity)
)
Defendants.)

MOTION FOR ENLARGEMENT OF TIME

Comes now the Defendants, City of Carmel, Indiana; Carmel City Police Department; Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall, by counsel, by counsel, and would respectfully move the Court for an enlargement of time pursuant to Ind. Trial Rule 6(B)(1) and would show the Court:

1. That a response to Plaintiff's Complaint is due on November 28, 2014, and that said time has not expired.
2. That no prior enlargements have been requested.
3. That said enlargement of time would expire on December 28, 2014.

4. That such enlargement of time is necessary so that the attorney for the Defendants will be able to properly investigate the allegations in the Plaintiff's Complaint in order to adequately respond to the Plaintiff's Complaint.

WHEREFORE, the Defendants, City of Carmel, Indiana; Carmel City Police Department; Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall, by counsel, would respectfully pray for an enlargement of time to respond to Plaintiff's Complaint, and for all other just and proper relief in the premises.

Respectfully submitted,

TRAVELERS STAFF COUNSEL OFFICE

By: Aimee Rivera Cole
Aimee Rivera Cole, #24669-45

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document has been duly served upon all persons listed below, by United States mail, first-class postage prepaid, on this 14th day of November, 2014:

Richard A. Cook
YOSHA COOK SHARTZER
& TISCH
9102 N. Meridian Street, Suite 535
Indianapolis, IN 46260

By: *Aimee Rivera Cole*
Aimee Rivera Cole, #24669-45

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CARMEL CITY POLICE DEPARTMENT;)
PATRICK CLENNON; SHANE COLLINS;)
ADAM DAVENPORT; BEN FISHER;)
THOMAS LOGAN; RALPH LONG; GREG)
LOVEALL; AND CARY MILLIGAN, Each in)
Their Individual and Official Capacity)
)
Defendants.)

ORDER ENLARGING TIME TO ANSWER

The Court, having reviewed the Motion for Enlargement of Time filed by the Defendants, City of Carmel, Indiana; Carmel City Police Department; Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall, by counsel, and being duly advised in the premises, now GRANTS said Motion.

IT IS THEREFORE ORDERED that the time within which the Defendants, City of Carmel, Indiana; Carmel City Police Department; Shane Collins; Adam Davenport, Ben Fisher, Ralph Long and Greg Loveall, by counsel, are required to respond to the Plaintiffs' Complaint, is enlarged to and including **December 28, 2014**.

Date: _____

Judge, Hamilton Superior Court 4

Copies To:

Aimee Rivera Cole
Travelers Staff Counsel
280 E. 96th Street, Suite 325
Indianapolis, IN 46240

Richard A. Cook
YOSHA COOK SHARTZER
& TISCH
9102 N. Meridian Street, Suite 535
Indianapolis, IN 46260

COPY

IN THE HAMILTON SUPERIOR COURT NO. 4

JAMES BECKETT,

Plaintiff,

v.

HAMILTON COUNTY SHERIFF'S
DEPT.; CITY OF CARMEL, INDIANA;
CARMEL CITY POLICE DEPARTMENT;
PATRICK CLENNON; SHANE COLLINS;
ADAM DAVENPORT; BEN FISHER;
THOMAS LOGAN; RALPH LONG;
GREG LOVEALL; and, CARY
MILLIGAN, Each in Their Individual
and Official Capacity,

Defendants.

CAUSE NO. 29D04-1410-CT-10569

APPEARANCE FORM

Party Classification: Initiating ☐ Responding ☒ Intervening ☐

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s): Defendants Hamilton County Sheriff's Department (incorrectly named as "Hamilton County Sherriff's Dept."), Patrick Clennon, Thomas Logan and Cary Milligan (hereinafter "the Hamilton County Defendants").
2. Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

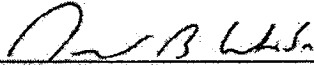
Name:	Donald B. Kite, Sr., #11601-41		
Address:	Wuertz Law Office, LLC	Phone:	317.423.1200
	210 Victoria Centre	Fax:	317.423.1202
	22 East Washington Street	Email:	don@wuertzlaw.com
	Indianapolis, IN 46204		

3. There are other party members: Yes ☐ No ☒ (If yes, list on continuation page.)
4. If first initiating party filing this case, the Clerk is requested to assign this case the following Case Type under Administrative Rule 8(b)(3): _____
5. I will accept service by FAX at the above noted number: Yes ☐ No ☒
6. This case involves support issues. Yes ☐ No ☒

7. There are related cases: Yes _____ No X (If yes, list on continuation page.)

8. This form has been served on all other parties and Certificate of Service is attached: Yes ☒
No ☐

Respectfully submitted,



Donald B. Kite, Sr., Attorney for the
Hamilton County Defendants
Attorney Number #11601-41

CERTIFICATE OF SERVICE


I hereby certify that I served a copy of the foregoing upon the following person/counsel of record, by placing the same in the United States Mail, postage prepaid this 18th day of November, 2014:

Richard A. Cook
YOSHA COOK SHARTZER & TISCH
9102 N. Meridian Street, Suite 535
Indianapolis, IN 46260

Darren Murphy
ASSISTANT HAMILTON COUNTY ATTORNEY
694 Logan Street
Noblesville, IN 46060

Douglas C. Haney, City Attorney
Ashley Marie Ulbricht, Asst. City Attorney
Jon A. Oberlander, Asst. City Attorney
CITY OF CARMEL, INDIANA
One Civic Square
Carmel, IN 46032

Aimée Rivera Cole
TRAVELERS STAFF COUNSEL OFFICE
280 East 96th Street, Suite 325
Indianapolis, IN 46240



Donald B. Kite, Sr.

WUERTZ LAW OFFICE, LLC
22 East Washington Street, Suite 210
Indianapolis, IN 46204
Telephone: (317) 423-1200

COPY

STATE OF INDIANA) IN THE HAMILTON SUPERIOR COURT

COUNTY OF HAMILTON)

CAUSE NO.

29 D04-1410

CT 10569

JAMES BECKETT,

Plaintiff,

vs.

HAMILTON COUNTY SHERIFF'S DEPT.;
CITY OF CARMEL, INDIANA;
CARMEL CITY POLICE DEPARTMENT;
PATRICK CLENNON; SHANE COLLINS;
ADAM DAVENPORT; BEN FISHER; THOMAS LOGAN;
RALPH LONG; GREG LOVEALL; and, CARY MILLIGAN,
Each in Their Individual and Official Capacity,

Defendants.

COMPLAINT

Comes now the Plaintiff, James Beckett, by counsel, Richard A. Cook, and files his Complaint against the Defendants: the Hamilton County Sheriff's Department; the City of Carmel, Indiana; the Carmel City Police Department; and Patrick Clennon; Shane Collins; Adam Davenport; Ben Fisher; Thomas Logan; Ralph Long; Greg Loveall; and Cary Milligan, each in their individual and official capacity, and shows the Court as follows:

ALLEGATIONS

1. The Plaintiff, James Beckett, was at all times relevant to this Complaint a resident of the County of Hamilton, State of Indiana.
2. The Hamilton County Sheriff is an office created by Article 6, § 2 of the Indiana Constitution and the powers and duties of the office are established by the Legislature.
3. The Defendants, Patrick Clennon, Thomas Logan, and Cary Milligan, based on knowledge and belief, are now, and were at all times material hereto, duly appointed, employed,

and acting within the scope and course of their employment as law enforcement officers and as employees of the Defendant, Hamilton County Sheriff's Department.

4. The Defendants, Greg Loveall, Adam Davenport, Ben Fisher, Shane Collins, and Ralph Long, based and knowledge and belief, are now and were at all times material hereto, duly appointed, employed, and acting within the scope and course of their employment as law enforcement officers and as employees of the Carmel Police Department and the City of Carmel, Indiana.

5. The allegations against the above-named Defendants are being brought in both their individual and official capacity, and, at all times relevant herein, they were acting under color of state law.

6. The Defendant, Hamilton County Sheriff's Department, is a police agency for the County of Hamilton, Indiana, and provides county services including law and traffic enforcement.

7. The Defendant, Carmel City Police Department, is a police agency for the City of Carmel, County of Hamilton, Indiana, and provides city services including law and traffic enforcement, and employed the above-named Defendants.

8. The Defendant, City of Carmel, was incorporated as a city in 1874 and acts through its law enforcement officers and employees and has its executive offices located at Carmel City Hall on One Civic Square, Carmel, Indiana 46032.

9. This action arises under the United States Constitution, particularly under the provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States, and under federal law. Specifically, it is alleged that the Defendants violated the Plaintiff's civil rights protected by the Fourth and Fourteenth Amendments of the U.S. Constitution as well as

Indiana State Constitution, Article I, Sections 11, 15 and 23, and in particular his right against an unreasonable seizure of his person, false arrest, trespass, loss of liberty, search and seizure of his property and the use of excessive, unreasonable, and unnecessary physical force or rigor and the right to be protected against unlawful and unjustified entry into his private residence.

10. ~~Claims are also being brought for false arrest and violations of laws of this state~~
and country prohibiting unreasonable seizures and the use of force.

11. On or about December 12, 2012, Plaintiff James Beckett and some friends were having a gathering at his home located at 10945 Cornell Ave., Indianapolis, Indiana.

12. In the course of the evening, several of Mr. Beckett's friends walked outside his front door, only to be confronted by the Defendant law enforcement officers, who drew guns and demanded that they put their hands up, saying "if you move we'll kill you."

13. At this point, James Beckett walked to the door to see what was going on.

14. The Defendant law enforcement officers ordered him out of the house, telling him "if you move we'll blow your head off."

15. Mr. Beckett came outside as ordered, where he was told at gunpoint to lie face down in the mud.

16. At this time, Mr. Beckett's sister was sleeping in his home, and the Defendants threatened to turn a canine unit loose on her, despite the fact that Mr. Beckett told them she was unable to hear them due to being asleep.

17. After first handcuffing James Beckett, who is an African American male, the law enforcement officers handcuffed four other people, three of whom were African American males.

18. At this point, however, the Defendants radioed dispatch and other law

enforcement officers at the scene, who informed them that they were, in fact, at entirely the wrong house.

19. The Defendants' entry onto Mr. Beckett's property and detention of himself and his friends were unlawful.

20. The Defendants' use of force was objectively unreasonable and excessive for the severity of the alleged crime at issue, which, if it did occur, took place at a completely different location.

21. That the amount of force applied by the Defendants was malicious and sadistic.

22. That at all times relevant herein, the Defendants had a duty to act reasonably with regard to ensuring they were at the correct location prior to dragging people out of the house at gunpoint, threatening to kill them, and arresting them.

23. That, as a direct and proximate result of the Defendants' conduct, the Plaintiff suffered injuries and damages, including but not limited to mental pain and suffering, as well as severe post-traumatic stress disorder.

24. That all of said injuries are permanent, except for those which are superficial in nature.

WHEREFORE, the Plaintiff, James Beckett, by counsel, Richard A. Cook, prays this Court award to the Plaintiff and against the Defendants:

- a. An amount of money to fairly and reasonably compensate the Plaintiff for his injuries and losses, deprivation of his liberty, mental pain and suffering, post-traumatic stress disorder, attorney fees, litigation expenses, loss of wages, and all other forms of compensable damages;
- b. Punitive damages;

- c. Pre-judgment interest to commence from the date of injury or loss; and
- d. All reasonable costs of this litigation and all other just and proper relief in the premises.

Respectfully Submitted,

YOSHA COOK SHARTZER & TISCH

By: 

Richard A. Cook, Atty. No. 3996-45

REQUEST FOR TRIAL BY JURY

Comes now the Plaintiff, and pursuant to Indiana Rule of Trial Procedure 38, requests trial by jury in the above-captioned cause of action.

YOSHA COOK SHARTZER & TISCH

By: 

Richard A. Cook, Atty. No. 3996-45

SUMMONS

COPY

STATE OF INDIANA) IN THE HAMILTON SUPERIOR COURT

COUNTY OF HAMILTON) SS: PM L: 06
CAUSE NO. 29004-1410-CT-10569

JAMES BECKETT,

Plaintiff,

vs.

HAMILTON COUNTY SHERIFF'S DEPT.;
CITY OF CARMEL, INDIANA;
CARMEL CITY POLICE DEPARTMENT;
PATRICK CLENNON; SHANE COLLINS;
ADAM DAVENPORT; BEN FISHER; THOMAS LOGAN;
RALPH LONG; GREG LOVEALL; and, CARY MILLIGAN,
Each in Their Individual and Official Capacity,

Defendants.

TO DEFENDANT: City of Carmel
City Hall
One Civic Square
Carmel, IN 46032

You are hereby notified that you have been sued by the person named as plaintiff and in the Court indicated above.

The nature of the suit against you is stated in the complaint that is attached to this Summons. It also states the relief sought or the demand made against you by the plaintiff.

An answer or other appropriate response in writing to the complaint must be filed either by you or your attorney within twenty (20) days, commencing the day after you receive this Summons, (or twenty-three (23) days if this Summons was served by mail), or a judgment by default may be rendered against you for the relief demanded by plaintiff.

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Dated _____

OCT 31 2014

*Peggy Beaver*⁶
CLERK OF COURTS (Seal)
Clerk, Hamilton Superior Court

(The following manner of service of summons is hereby designated)

XX Registered or certified mail.

___ Service at place of employment, to-wit:

___ Service on individual -- (Personal or copy) at above address. By Sheriff

___ Service on agent. (Specify)

___ Other service. (Specify)



Richard A. Cook, #3996-45
YOSHA COOK SHARTZER & TISCH
Attorney for Plaintiff

9102 North Meridian Street, Suite 535
Indianapolis, IN 46260
(317) 334-9200 (317) 566-3578 Fax

SHERIFF'S RETURN ON SERVICE OF SUMMONS

I hereby certify that I have served this summons on the ____ day of _____, 20__.

(1) By delivering a copy of the Summons and a copy of the complaint to the defendant, _____.

(2) By leaving a copy of the Summons and a copy of the complaint at _____ and by mailing a copy of said summons to said defendant at the above address.

(3) Other Service or Remarks: _____.

Sheriff's Costs

Sheriff, Hamilton County

By: _____
Deputy

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the ____ day of _____, 20__, I mailed a copy of this Summons and a copy of the complaint to the defendant, _____, by _____ mail, requesting a return receipt, at the address furnished by the plaintiff.

Dated: _____

Clerk, Hamilton Superior Court

By: _____
Deputy

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the complaint mailed to defendant _____ was accepted by the defendant on the day of _____, 20__.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the complaint was returned not accepted on the ____ day of _____, 20__.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the complaint mailed to defendant _____ was accepted by on behalf of said defendant on the ____ day of _____, 20__.

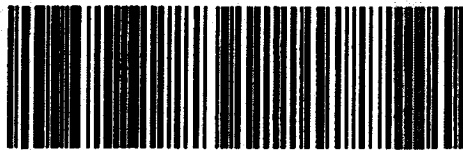
Clerk, Hamilton Superior Court

By: _____
Deputy



PEGGY BEAVER
CLERK OF HAMILTON CO
STE 106
1 HAMILTON COUNTY SQ
NOBLESVILLE, IN 46060-2228

Return Receipt (Electronic)



9214 8901 0661 5400 0043 0806 14

COPY

29D04 1410 CT 10569 LR

CITY OF CARMEL
CITY HALL
1 CIVIC SQ
CARMEL, IN 46032-2584

CUT / FOLD HERE

6"x9" ENVELOPE
CUT / FOLD HERE

CUT / FOLD HERE

COPY

CERTIFIED MAIL



U.S. POSTAGE >> PITNEY BOWES



ZIP 46241 \$ 005.84⁰
02 1W
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